

AMENDED IN ASSEMBLY MAY 28, 2013

AMENDED IN ASSEMBLY MAY 8, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1001

**Introduced by Assembly Member Gordon
(Coauthor: Assembly Member Stone)**

February 22, 2013

An act to amend Sections 14505, 14515.5, 14538, 14549.5, 14550, 14553, 14560.5, 14571.2, 14571.8, 14573, 14574, 14575, 14581, and 14583 of, to amend, repeal, and add Section 14585 of, to add Sections 14526.8, 14528.2, 14528.3, 14560.2, 14571.6.5, and 14580.5 to, and to add Division 12.5 (commencing with Section 17000) to, *Section 14538 of the Public Resources Code, relating to recycling, and making an appropriation therefor recycling.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Gordon. Recycling *centers*: voluntary beverage containers.

(1) Existing

Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a distributor to pay a redemption payment for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery. The department is required to deposit those amounts in the California Beverage Container Recycling Fund. The act defines the term beverage as including specified types of beverages that are sold in aluminum beverage containers, glass

beverage containers, plastic beverage containers, or bimetal containers. A violation of the act is a crime.

This bill would define the term “regulated beverage” as a beverage that meets the definition of beverage under the act, but is sold in a beverage container that is not one of those containers. The bill would also include, as a regulated beverage, 100% fruit juice in a container that is 46 ounces or more in volume and vegetable juice in a container that is more than 16 ounces in volume.

The bill would require a distributor of regulated beverage containers to submit a plan, by January 1, 2014, to the department for the implementation of a takeback and recycling system incorporating specified elements to implement the plan, and to annually demonstrate to the department that not less than 80% of the regulated beverages sold by the distributor in this state are recycled and that the regulated beverage containers sold by the distributor are made from material containing not less than 35% postconsumer recycled content. The bill would authorize the department to require a distributor to pay an annual administrative fee that would be required to be set at an amount that is adequate to cover the department’s full costs of administering and enforcing this program. The bill would require the department to deposit the fees into the Regulated Beverage Account, which the bill would establish in the State Treasury. The bill would authorize the department to expend the moneys in the Regulated Beverage Account, upon appropriation by the Legislature, to cover the department’s costs to implement the program.

The bill would allow a distributor, in lieu of submitting and implementing a takeback and recycling system, to elect to pay a redemption payment to the department pursuant to the act and to otherwise comply with the act. The bill would require the department to deposit the redemption payments by distributors for voluntary beverage containers into the Voluntary Beverage Container Fund, which the bill would create in the State Treasury. The bill would continuously appropriate the money in the Voluntary Beverage Container Fund to the department for the payment of refund values and administrative fees to processors for voluntary beverage containers, and as a reserve for contingencies, thereby making an appropriation. The bill would also provide that the money in the Voluntary Beverage Container Fund may be expended by the department for the administration of the act only upon appropriation by the Legislature.

~~The bill would require the department to establish a separate processing fee account in the Voluntary Beverage Container Fund for voluntary beverage containers and would require all amounts paid as processing fees for those voluntary beverage containers be deposited in that account. The bill would continuously appropriate those funds to the department for purposes of making processing payments for voluntary beverage containers. The bill would require the department, once every 3 months, to set aside funds estimated to be needed for the expenditures specified above. The bill would continuously appropriate the remainder of those funds to the department to pay handling fees for voluntary beverage containers and to make payments for the collection of voluntary beverage containers by curbside programs and neighborhood dropoff programs. The bill would make other conforming changes to the act with regard to voluntary beverage containers.~~

~~(2) The~~

The act requires the department to certify recycling centers and requires, as a condition of certification, that if one or more certified entities have operated at the same location within the past 5 years, the operations at the location of the recycling center exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of the act.

This bill would authorize the department to waive this requirement if it makes a specified determination.

~~(3) Existing law requires the department to annually review and recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers.~~

~~This bill would prohibit the department from recalculating commingled rates for the 2014, 2015, and 2016 calendar years paid to recycling centers and would prohibit recycling centers from paying any refund value at a commingled rate.~~

~~(4) Existing law specifies requirements for the reports, claims, and information required to be submitted to the department pursuant to the act.~~

This bill would require the department to make available a process for electronically submitting these reports, claims, and other information and would require those reports, claims, and other information to be submitted electronically to the department pursuant to that process. The bill would make conforming changes with regard to the electronic submission of reports and payments to the department.

~~(5) Existing law specifies procedures for the reduction of the processing fee for PET containers, as defined. Existing law also requires all rigid plastic bottles and rigid plastic containers to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container.~~

~~This bill would revise the definition of the term “PET container” for purposes of the act to include a plastic beverage container labeled with the term PETE.~~

~~(6) The act defines “convenience zone” for the purposes of the act and requires that every convenience zone be served by at least one certified recycling center, with specified operating hours. Existing law authorizes the department to designate a convenience zone in an area where there is no supermarket and to grant an exemption from the convenience zone requirements of the act.~~

~~This bill would define the term “unserved convenience zone” and would require the department to provide assistance and incentives to reduce the number of unserved convenience zones to less than 5% of total convenience zones by January 1, 2015.~~

~~This bill would permit the department to authorize an operator of a certified recycling center to be open for business less than 30 hours per week, but not less than 20 hours per week, if the recycling center is located in an unserved convenience zone, as defined, that has been unserved for at least 6 continuous months.~~

~~(7) Existing law prohibits a lease entered into by a dealer to contain a leasehold restriction that prohibits or results in the prohibition of the establishment of a recycling location. Existing law prohibits the department from making any payments, grants, or loans, to a city or county that has adopted or is enforcing a land use restriction that prevents the siting or operation of a certified recycling center at a supermarket site.~~

~~This bill would prohibit a person from entering into a lease with a supermarket on or after January 1, 2014, that prohibits the operation of a certified recycling center or inhibits the ability of that supermarket to operate as, or contract with, a certified recycling center. This bill would also prohibit a city or county that receives any revenue pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law from a transaction conducted by a supermarket from prohibiting the siting of a certified recycling center in the parking lot of a supermarket.~~

~~(8) After setting aside funds for the payment of refund values and administrative fees, and for a reserve for contingencies, the act provides~~

~~that the remaining moneys in the fund are continuously appropriated to the department for expenditure for designated programs, grants, and fee payments, including annually expending \$15,000,000 for grants for beverage container programs to certain community conservation corps and \$1,500,000 for grants for beverage container programs.~~

~~This bill would increase the amount the department is authorized to spend for grants for beverage container programs to certain community conservation corps to \$21,000,000 and would delete the authorization to expend that \$1,500,000 for those other grants, thereby making an appropriation.~~

~~(9) The act continuously appropriates to the department the amount necessary to pay handling fees to provide an incentive for the redemption of empty beverage containers in convenience zones. Existing law specifies procedures for determining the number of containers for which a handling fee may be paid and requires the department to set the amount of the handling fee using a specified method, but requires the per-container handling fee to be set until March 1, 2013, at an amount that is not less than the amount of the per-container handling fee that was in effect on July 1, 2011.~~

~~This bill would make inoperative the existing provisions regarding the methods for setting and calculating handling fees on July 1, 2014, and would repeal those provisions on January 1, 2015. The bill would provide that for beverage containers returned for recycling on and after July 1, 2014, the handling fee would equal specified amounts, based on the amount of beverage containers a recycling site handles each month. The bill would make an appropriation by changing the terms and conditions under which the department is authorized to make payments from a continuously appropriated fund.~~

~~(10) Since a violation of the act is a crime, the bill would impose a state-mandated local program by creating new crimes with regard to the submission of information to the department.~~

~~(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 14538 of the Public Resources Code is*
2 *amended to read:*

3 14538. (a) The department shall certify the operators of
4 recycling centers pursuant to this section. The director shall adopt,
5 by regulation, a procedure for the certification of recycling centers,
6 including standards and requirements for certification. These
7 regulations shall require that all information be submitted to the
8 department under penalty of perjury. A recycling center shall meet
9 all of the standards and requirements contained in the regulations
10 for certification. The regulations shall require, but shall not be
11 limited to requiring, that all of the following conditions be met for
12 certification:

13 (1) The operator of the recycling center demonstrates, to the
14 satisfaction of the department, that the operator will operate in
15 accordance with this division.

16 (2) (A) If one or more certified entities have operated at the
17 same location within the past five years, the operations at the
18 location of the recycling center exhibit, to the satisfaction of the
19 department, a pattern of operation in compliance with the
20 requirements of this division and regulations adopted pursuant to
21 this division.

22 (B) *The department shall waive the requirements of*
23 *subparagraph (A) if the department determines that the new*
24 *operator applicant has no relationship or affiliation to a previous*
25 *certified entity that operated at the same location.*

26 (3) The operator of the recycling center notifies the department
27 promptly of any material change in the nature of his or her
28 operations which conflicts with information submitted in the
29 operator's application for certification.

30 (b) A certified recycling center shall comply with all of the
31 following requirements for operation:

32 (1) The operator of the recycling center shall not pay a refund
33 value for, or receive a refund value from any processor for, any
34 food or drink packaging material or any beverage container or
35 other product that does not have a refund value established pursuant
36 to Section 14560.

37 (2) The operator of a recycling center shall take those actions
38 that satisfy the department to prevent the payment of a refund value

1 for any food or drink packaging material or any beverage container
2 or other product that does not have a refund value established
3 pursuant to Section 14560.

4 (3) Unless exempted pursuant to subdivision (b) of Section
5 14572, a certified recycling center shall accept, and pay at least
6 the refund value for, all empty beverage containers, regardless of
7 type.

8 (4) A certified recycling center shall not pay any refund values,
9 processing payments, or administrative fees to a noncertified
10 recycler.

11 (5) A certified recycling center shall not pay any refund values,
12 processing payments, or administrative fees on empty beverage
13 containers or other containers that the certified recycling center
14 knew, or should have known, were coming into the state from out
15 of the state.

16 (6) A certified recycling center shall not claim refund values,
17 processing payments, or administrative fees on empty beverage
18 containers that the certified recycling center knew, or should have
19 known, were received from noncertified recyclers or on beverage
20 containers that the certified recycling center knew, or should have
21 known, come from out of the state.

22 (7) A certified recycling center shall prepare and maintain the
23 following documents involving empty beverage containers, as
24 specified by the department by regulation:

25 (A) Shipping reports that are required to be prepared by the
26 recycling center, or that are required to be obtained from other
27 recycling centers.

28 (B) Consumer transaction receipts.

29 (C) Consumer transaction logs.

30 (D) Rejected container receipts on materials subject to this
31 division.

32 (E) Receipts for transactions with beverage manufacturers on
33 materials subject to this division.

34 (F) Receipts for transactions with beverage distributors on
35 materials subject to this division.

36 (G) Documents authorizing the recycling center to cancel empty
37 beverage containers.

38 (H) Weight tickets.

39 (8) In addition to the requirements of paragraph (7), a certified
40 recycling center shall cooperate with the department and make

1 available its records of scrap transactions when the review of these
2 records is necessary for an audit or investigation by the department.

3 (c) The department may recover, in restitution pursuant to
4 paragraph (5) of subdivision (c) of Section 14591.2, payments
5 made from the fund to the certified recycling center pursuant to
6 Section 14573.5 that are based on the documents specified in
7 paragraph ~~(7)~~, (7) of subdivision (b), that are not prepared or
8 maintained in compliance with the department's regulations, and
9 that do not allow the department to verify claims for program
10 payments.

11 (d) The department may certify a recycling center that will
12 operate less than 30 hours a week, as specified in paragraph (2) of
13 subdivision (b) of Section 14571.

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16 **All matter omitted in this version of the bill**
17 **appears in the bill as amended in the**
18 **Assembly, May 8, 2013. (JR11)**
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